

91ST CONGRESS
2D SESSION

H. RES. 936

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1970

Mr. WYMAN (for himself, Mr. SCOTT, Mr. WAGGONER, Mr. SIKES, Mr. DUNCAN, Mr. COLLIER, Mr. JOHNSON of Pennsylvania, and Mr. BURKE of Florida) submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Whereas, the Constitution of the United States provides in Article III, Section 1, that Justices of the Supreme Court shall hold office only "during good behavior", and

Whereas, the Constitution also provides in Article II, Section 4, that Justices of the Supreme Court shall be removed from Office on Impeachment for High Crimes and Misdemeanors, and

Whereas the Constitution also provides in Article VI that Justices of the Supreme Court shall be bound by "Oath or Affirmation to support this Constitution" and the United States Code (5 U.S.C. 16) prescribes the following form of oath which was taken and sworn to by William Orville

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CRC, 5/20/2003

Douglas prior to his accession to incumbency on the United States Supreme Court:

"I, William Orville Douglas, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

and

Whereas, integrity and objectivity in respect to issues and causes to be presented to the United States Supreme Court for final determination make it mandatory that Members thereof refrain from public advocacy of a position on any matter that may come before the High Court lest public confidence in this constitutionally co-equal judicial body be undermined, and

Whereas, the said William Orville Douglas has, on frequent occasions in published writings, speeches, lectures and statements, declared a personal position on issues to come before the United States Supreme Court indicative of a prejudiced and non-judicial attitude incompatible with good behavior and contrary to the requirements of judicial decorum obligatory upon the Federal judiciary in general and members of the United States Supreme Court in particular, and

Whereas, by the aforementioned conduct and writings, the said William Orville Douglas has established himself before the public, including litigants whose lives, rights and future are seriously affected by decisions of the Court of which the said William Orville Douglas is a member, as a partisan advocate and not as a judge, and

Whereas, by indicating in advance of Supreme Court decisions, on the basis of declared, printed, or quoted convictions, how he would decide matters in controversy pending and to become pending before the Court of which he is a member, the said William Orville Douglas has committed the high misdemeanor of undermining the integrity of the highest constitutional Court in America, and has wilfully and deliberately undermined public confidence in the said Court as an institution, and

Whereas, contrary to his Oath of Office as well as patently in conflict with the Canons of Ethics for the Judiciary of the American Bar Association, the said William Orville Douglas nevertheless on February 19, 1970, did publish and publicly distribute throughout the United States, statements encouraging, aggravating and inciting violence, anarchy and civil unrest in the form of a book entitled "Points of Rebellion" in which the said William Orville Douglas, all the while an incumbent on the Highest Court of last resort in the United States, stated, among other things, that:

"But where grievances pile high and most of the elected spokesmen represent the Establishment, violence may be the only effective response." (pp. 88-89, "Points of Rebellion," Random House, Inc., February 19, 1970, William O. Douglas.

"The special interests that control government use its powers to favor themselves and to perpetuate regimes of oppression, exploitation, and discrimination against the many." (ibid, p. 92)

"People march and protest but they are not heard." (ibid, p. 88)

"Where there is a persistent sense of futility, there is violence; and that is where we are today." (ibid, p. 56)

"The two parties have become almost indistinguishable; and each is controlled by the Establishment. The modern day dissenters and protesters are functioning as the loyal opposition functions in England. They are the mounting voice of political opposition to the status quo, calling for revolutionary changes in our institutions. Yet the powers-that-be faintly echo Adolph Hitler." (ibid, p. 57)

"Yet American protesters need not be submissive. A speaker who resists arrest is acting as a free man." (ibid, p. 6)

"We must realize that today's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution." (ibid, p. 95)

and thus wilfully and deliberately fanned the fires of unrest, rebellion, and revolution in the United States, and

Whereas, in the April 1970 issue of Evergreen Magazine, the said William Orville Douglas for pay did, while an incumbent on the United States Supreme Court, publish an article entitled Redress and Revolution, appearing on page 41 of said issue immediately following a malicious caricature of the President of the United States as George III, as well as photographs of nudes engaging in various acts of sexual intercourse, in which article the said William Orville Douglas again wrote for pay that:

"George III was the symbol against which our Founders made a revolution now considered bright and glorious. . . . We must realize that today's Establishment is the new George III. Whether it will continue to

adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also Revolution."

and

Whereas, the said William Orville Douglas, prepared, authored, and received payment for an article which appeared in the March 1969 issue of the magazine, Avant Garde, published by Ralph Ginzburg, previously convicted of sending obscene literature through the United States Mails, (see 383 U.S. 463) at a time when the said Ralph Ginzburg was actively pursuing an appeal from his conviction upon a charge of malicious libel before the Supreme Court of the United States, yet nevertheless the said William Orville Douglas, as a sitting member of the Supreme Court of the United States, knowing full well his own financial relationship with this litigant before the Court, sat in judgment on the Ginzburg appeal, all in clear violation and conflict with his Oath of Office, the Canons of Judicial Ethics, and Federal law (396 U.S. 1049), and

Whereas, while an incumbent on the United States Supreme Court the said William Orville Douglas for hire has served and is reported to still serve as a Director and as Chairman of the Executive Committee of the Center for the Study of Democratic Institutions in Santa Barbara, California, a politically oriented action organization which, among other things, has organized national conferences designed to seek detente with the Soviet Union and openly encouraged student radicalism, and

Whereas, the said Center for the Study of Democratic Institutions, in violation of the Logan Act, sponsored and financed a "Pacem in Terris II Convocation" at Geneva, Switzer-

land, May 28-31, 1967, to discuss foreign affairs and U.S. foreign policy including the "Case of Vietnam" and the "Case of Germany", to which Ho Chi Minh was publicly invited, and all while the United States was in the midst of war in which Communists directed by the same Ho Chi Minh were killing American boys fighting to give South Vietnam the independence and freedom from aggression we had promised that Nation, and from this same Center there were paid to the said William Orville Douglas fees of \$500 per day for Seminars and Articles, and

Whereas, paid activity of this type by a sitting Justice of the Supreme Court of the United States is contrary to his Oath of Office to uphold the United States Constitution, violative of the Canons of Ethics of the American Bar Association and is believed to constitute misdemeanors of the most fundamental type in the context in which that term appears in the United States Constitution (Article II, Section 4) as well as failing to constitute "good behavior" as that term appears in the Constitution (Article III, Section 1), upon which the tenure of all Federal judges is expressly conditioned, and

Whereas, moneys paid to the said William Orville Douglas from and by the aforementioned Center are at least as follows: 1962, \$900; 1963, \$800; 1965, \$1,000; 1966, \$1,000; 1968, \$1,100; 1969, \$2,000; all during tenure on the United States Supreme Court, and all while a Director on a Board of Directors that meets (and met) biannually to determine the general policies of the Center, and

Whereas, the said William Orville Douglas, contrary to his sworn obligation to refrain therefrom and in violation of the Canons of Ethics, has repeatedly engaged in political activity while an incumbent of the High Court, evidenced in part by his

authorization for the use of his name in a recent political fund-raising letter, has continued public advocacy of the recognition of Red China by the United States, has publicly criticized the military posture of the United States, has authored for pay several articles on subjects patently related to causes pending or to be pending before the United States Supreme Court in Playboy Magazine on such subjects as invasions of privacy and civil liberties, and most recently has expressed in Brazil public criticism of United States foreign policy while on a visit to Brazil in 1969, plainly designed to undermine public confidence in South and Latin American countries in the motives and objectives of the foreign policy of the United States in Latin America, and

Whereas, in addition to the foregoing, and while a sitting Justice on the Supreme Court of the United States, the said William Orville Douglas has charged, been paid and received \$12,000 per annum as President and Director of the Parvin Foundation from 1960 to 1969, which Foundation received substantial income from gambling interests in the Freemont Casino at Las Vegas, Nevada, as well as the Flamingo at the same location, accompanied by innumerable conflicts of interest and overlapping financial maneuvers frequently involved in litigation the ultimate appeal from which could only be to the Supreme Court of which the said William Orville Douglas was and is a member, the tenure of the said William Orville Douglas with the Parvin Foundation being reported to have existed since 1960 in the capacity of President, and resulting in the receipt by the said William Orville Douglas from the Parvin Foundation of fees aggregating at least \$85,000, all while a member of the United States Supreme Court, and all while referring to Internal Revenue Service investigation of the Parvin Foundation

while a Justice of the United States Supreme Court as a "manufactured case" intended to force him to leave the bench, all while he was still President and Director of the said Foundation and was earning a \$12,000 annual salary in those posts, a patent conflict of interest, and

Whereas, it has been repeatedly alleged that the said William Orville Douglas in his position as President of the Parvin Foundation did in fact give the said Foundation tax advice, with particular reference to matters known by the said William Orville Douglas at the time to have been under investigation by the United States Internal Revenue Service, all contrary to the basic legal and judicial requirement that a Supreme Court Justice may not give legal advice, and particularly not for a fee, and

Whereas, the said William Orville Douglas has, from time to time over the past ten years, had dealings with, involved himself with, and may actually have received fees and travel expenses, either directly or indirectly, from known criminals, gamblers, and gangsters or their representatives and associates, for services, both within the United States and abroad, and

Whereas, the foregoing conduct on the part of the said William Orville Douglas while a Justice of the Supreme Court is incompatible with his constitutional obligation to refrain from non-judicial activity of a patently unethical nature, and

Whereas, the foregoing conduct and other activities on the part of the said William Orville Douglas while a sitting Justice on the United States Supreme Court, establishes that the said William Orville Douglas in the conduct of his solemn judicial responsibilities has become a prejudiced advocate of predetermined positions on matters in controversy or to

become in controversy before the High Court to the demonstrated detriment of American jurisprudence, and

Whereas, from the foregoing, and without reference to whatever additional relevant information may be developed through investigation under oath, it appears that the said William Orville Douglas, among other things, has sat in judgment on a cause involving a party from whom the said William Orville Douglas to his knowledge received financial gain, as well as that the said William Orville Douglas for personal financial gain, while a member of the United States Supreme Court, has encouraged violence to alter the present form of government of the United States of America, and has received and accepted substantial financial compensation from various sources for various duties incompatible with his judicial position and constitutional obligation, and has publicly and repeatedly, both orally and in writings, declared himself a partisan on issues pending or likely to become pending before the Court of which he is a member: Now, therefore, be it

1 *Resolved, That—*

2 (1) The Speaker of the House shall within fourteen
3 days hereafter appoint a select committee of six Members of
4 the House, equally divided between the majority and the
5 minority parties and shall designate one member to serve as
6 chairman, which select committee shall proceed to investi-
7 gate and determine whether Associate Justice William
8 Orville Douglas has committed high crimes and misde-
9 meanors as that phrase appears in the Constitution, Article
10 II, Section 4, or has, while an incumbent, failed to be of the

1 good behavior upon which his Commission as said Justice is
2 conditioned by the Constitution, Article III, Section 1. The
3 select committee shall report to the House the results of its
4 investigation, together with its recommendations on this res-
5 olution for impeachment of the said William Orville Douglas
6 not later than ninety days following the designation of its full
7 membership by the Speaker.

8 (2) For the purpose of carrying out this resolution the
9 committee, or any subcommittee thereof, is authorized to sit
10 and act during the present Congress at such times and places
11 within the United States whether the House is sitting, has
12 recessed, or has adjourned, to hold such hearings, and to
13 require by subpoena or otherwise, the attendance and testi-
14 mony of such witnesses and the production of such books,
15 records, correspondence, memorandums, papers, and docu-
16 ments as it deems necessary. Subpenas may be issued under
17 the signature of the chairman of the committee or any mem-
18 ber of the committee designated by him, and may be served
19 by any person designated by such chairman or member.

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RESOLUTION

Creating a Select Committee to conduct an investigation of certain activities of William Orville Douglas, Associate Justice of the United States Supreme Court, to determine whether impeachment proceedings are warranted.

By Mr. WYMAN, Mr. SCOTT, Mr. WAGGONNER,
Mr. SIKES, Mr. DUNCAN, Mr. COLLIER, Mr.
JOHNSON of Pennsylvania, and Mr. BURKE
of Florida

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Referred to the Committee on Rules